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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,245	12/12/2003	Wolfgang Hock	964-032165	9805

28289 7590 10/05/2006

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EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/735,245	Applicant(s) HOCK ET AL.	
	Examiner Toan C. To	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,7 and 19-22 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 11-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12-12-2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schatz (U.S. 6,446,758) in view of Matsufuji (U.S. 6,164,396).

Schatz discloses an industrial truck comprising: a driver's seat (34) which can be swiveled about an approximately vertical axis (68) of rotation, wherein the driver's seat (34) is capable of swiveling in a clockwise direction from a normal position associated with a forward travel direction by an angle into an oblique position associated with a reverse travel direction; wherein the axis of rotation of the driver's seat is defined in a region of the seat front edge, within a seat contour (see position of the axis of rotation 68 in figure 2); wherein the industrial truck is a forward control fork-lift truck.

Schatz does not disclose an industrial truck having dual pedal comprising: a first stationary pedal for forward travel and a second stationary pedal for reverse travel; wherein the first and second pedals are located in a foot space of the truck with the first pedal located to the right of the second pedal with respect to the normal position.

Matsufuji teaches the invention wherein the industrial truck having dual pedal comprising: a first stationary pedal (8F) for forward travel and a second stationary pedal (8R) for reverse travel; wherein the first and second pedals (8F, 8R) are located in a

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foot space (4) of the truck with the first pedal (8F) located to the right of the second pedal (8R) with respect to the normal position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schatz by using the teaching of dual pedals mechanism as taught by Matsufuji. This modification is to provide flexibility for the operator and to allow maximum efficiency during operation.

Schatz does not explicitly disclose the particular range for the rotation angles such as the angle within the range of 15 to 25 degrees, 15 to 20 degrees or approximately 17 degrees as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat of Schatz to rotate within the range of rotation angles as indicated above, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller* 105 USPQ 233.

3. Claims 1-2, 4-5, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Publication No. EP-1260477 in view of Matsufuji (U.S. 6,164,396).

European Publication No. EP-1260477 discloses an industrial truck having dual pedal control, comprising: a pedal (47) configured to be operated by an operator and a pedal (48) configured to be operated by the operator; a driver's seat (4) which can be swiveled about an approximately vertical axis (19) of rotation, wherein the driver's seat (4) is capable of swiveling in a clockwise direction from a normal position associated

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with a forward travel direction by an angle into an oblique position associated with a reverse travel direction; wherein the industrial truck is a forward control fork-lift truck.

European Publication No. EP-1260477 does not directly which pedal is for forward travel and reverse travel, in particular, a first stationary pedal for forward travel and a second stationary pedal for reverse travel; wherein the first and second pedals are located in a foot space of the truck with the first pedal located to the right of the second pedal with respect to the normal position.

Matsufuji teaches the invention wherein the industrial truck having dual pedal comprising: a first stationary pedal (8F) for forward travel and a second stationary pedal (8R) for reverse travel; wherein the first and second pedals (8F, 8R) are located in a foot space (4) of the truck with the first pedal (8F) located to the right of the second pedal (8R) with respect to the normal position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Schatz by using the teaching of dual pedals mechanism as taught by Matsufuji. This modification is to provide flexibility for the operator and to allow maximum efficiency during operation.

European Publication No. EP-1260477 fails to disclose the rotation angle within the range of 15 to 25 degrees, 15 to 20 degrees or approximately 17 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat of Schatz to rotate within the range of rotation angles as indicated above, since it has been held that where the general conditions of a claim

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are disclosed in the prior art, discovering the optimum or workable range involves only routine skill in the art. *In re Aller* 105 USPQ 233.

As to claims 4-5, European Publication No. EP-1260477 discloses the industrial truck, wherein the driver's seat (4) has an armrest (5) to which an unlocking element (30) is fixed, wherein the unlocking element (30) is operatively connected to a locking device (25) which secures the driver's seat (4) against rotation at least in the normal position and in the oblique position; wherein the unlocking element (30) is operatively connected to the locking device by a cable (31).

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

5. Claims 6-7, and 19-22 are allowed.

6. Claims 11-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C. To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTO
September 29, 2006

 10/2/06
PAUL N. DICKSON
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